

## UNITED STATES DISTRICT COURT

for the

Southern District of Mississippi

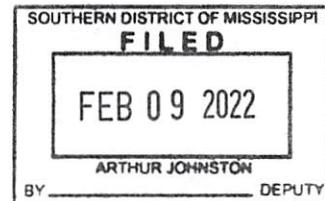
Western Division

) Case No. 5:22-cv-7 DCB-FKB  
 )  
 ) (to be filled in by the Clerk's Office)

Carey Jason Witten

*Plaintiff(s)*  
 (Write the full name of each plaintiff who is filing this complaint.  
 If the names of all the plaintiffs cannot fit in the space above,  
 please write "see attached" in the space and attach an additional  
 page with the full list of names.)

-v-

Mississippi Department of Public Safety, Adams  
County Sheriff and Adams County, Mississippi

*Defendant(s)*  
 (Write the full name of each defendant who is being sued. If the  
 names of all the defendants cannot fit in the space above, please  
 write "see attached" in the space and attach an additional page  
 with the full list of names.)

## COMPLAINT AND REQUEST FOR INJUNCTION

## I. The Parties to This Complaint

## A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

|                    |  |
|--------------------|--|
| Name               | Carey Jason Witten   |
| Street Address     | 91 Beau Pre Road (mail correspondence to 11255 Tierrasanta |
| City and County    | Blvd #120, San Diego, CA 92124)                            |
| State and Zip Code | Natchez, Adams County, Mississippi 39120                   |
| Telephone Number   | (601)334-2287  |
| E-mail Address     | cwclubpro@gmail.com  |

**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (*if known*). Attach additional pages if needed.

## Defendant No. 1

|                                    |  |
|------------------------------------|--|
| Name                               | Mississippi Department of Public Safety                    |
| Job or Title ( <i>if known</i> )   | Commissioner Sean Tindell and MSOR Director Megan Costilow |
| Street Address                     | 1900 East Woodrow Wilson Boulevard                         |
| City and County                    | Jackson, Hinds County                                      |
| State and Zip Code                 | Mississippi 39216  |
| Telephone Number                   | (601)933-2618  |
| E-mail Address ( <i>if known</i> ) | mcostilow@dps.ms.gov                                       |

## Defendant No. 2

|                                    |   |
|------------------------------------|---|
| Name                               | Karren Ewing                                |
| Job or Title ( <i>if known</i> )   | Adam's County Deputy Sheriff, SOR Registrar |
| Street Address                     | 306 State Street                            |
| City and County                    | Natchez, Adams County                       |
| State and Zip Code                 | Mississippi 39120                           |
| Telephone Number                   | (601)492-9806                               |
| E-mail Address ( <i>if known</i> ) | kewing@adamscosheriff.org                   |

## Defendant No. 3

|                                    |   |
|------------------------------------|---|
| Name                               | Adams County, Mississippi                                     |
| Job or Title ( <i>if known</i> )   | In Their Official Capacity in the Operations of County Courts |
| Street Address                     | 314 State Street  |
| City and County                    | Natchez, Adams County   |
| State and Zip Code                 | Mississippi 39120   |
| Telephone Number                   | (601)442-2431   |
| E-mail Address ( <i>if known</i> ) | chanceryclerk@adams.govmscounty                               |

## Defendant No. 4

|                                  |     |
|----------------------------------|-----|
| Name                             | n/a |
| Job or Title ( <i>if known</i> ) |     |
| Street Address                   |     |
| City and County                  |     |
| State and Zip Code               |     |
| Telephone Number                 |     |

E-mail Address (*if known*)**II. Basis for Jurisdiction**

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? (*check all that apply*)

Federal question  Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

**A. If the Basis for Jurisdiction Is a Federal Question**

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

28 USC Section 1331, United States Constitution, Article IV, Section 1, 1<sup>st</sup> Amendment, 4<sup>th</sup> Amendment, 5<sup>th</sup> Amendment, 6<sup>th</sup> Amendment, 8<sup>th</sup> Amendment and 14<sup>th</sup> Amendment.

**B. If the Basis for Jurisdiction Is Diversity of Citizenship****1. The Plaintiff(s)****a. If the plaintiff is an individual**

The plaintiff, (*name*) n/a , is a citizen of the  
State of (*name*) n/a .

**b. If the plaintiff is a corporation**

The plaintiff, (*name*) n/a , is incorporated  
under the laws of the State of (*name*) n/a ,  
and has its principal place of business in the State of (*name*)  
n/a .

*(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)*

**2. The Defendant(s)****a. If the defendant is an individual**

The defendant, (*name*) \_\_\_\_\_ , is a citizen of

the State of *(name)* \_\_\_\_\_ . Or is a citizen of  
(*foreign nation*) \_\_\_\_\_ .

b. If the defendant is a corporation

The defendant, *(name)* n/a \_\_\_\_\_ , is incorporated under  
the laws of the State of *(name)* \_\_\_\_\_ , and has its  
principal place of business in the State of *(name)* \_\_\_\_\_ .  
Or is incorporated under the laws of *(foreign nation)* \_\_\_\_\_ ,  
and has its principal place of business in *(name)* \_\_\_\_\_ .

*(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)*

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because *(explain)*:

n/a

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**III. Statement of Claim**

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the injunction or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. Where did the events giving rise to your claim(s) occur?

In February of 2021 plaintiff Mr. Witten filed a civil action in Adams County Circuit Court, case number 21-KV-0011-B. A further motion and petition have also subsequently been filed in this case. TO DATE THE ADAMS COUNTY CIRCUIT COURT HAS FAILED TO PROVIDE A COURT DATE REGARDING HIS GRIEVANCES WITH STATE GOVERNMENT, A CLEAR VIOLATION OF HIS 1<sup>ST</sup> AMENDMENT RIGHTS. As a result Mr. Witten continues to suffer unlawfully from the effects of registration per Mississippi Statute 45-33-21 et seq. Registration administered by the Department of Public Safety and Adams County Sheriff is triggered by a conviction of a registerable offense. Plaintiff has no prior conviction that triggers registration. (see attachment "A" and "B".)

September 10, 2021 while in Chancery Court filing for a hearing involving a personal marital issue Mr. Witten was arrested by the Adams County Sheriff for "address notification change". Once again, without any underlying conviction that triggers registration in Mississippi the plaintiff suffers from arbitrary and illegal arrest. In the midst of fighting an ex-parte order that temporarily removed him from his home without warning he was arrested, booked, jailed and charged with a felony. According to state statute's 45-33-23(d),(i) and 45-33-29(1) the plaintiff has not violated any law nor was any probable cause established, thus the subsequent arrest and confinement was A VIOLATIONS OF HIS 4<sup>TH</sup> AMENDMENT RIGHTS.

Later that day, plaintiff Mr. Witten was summoned for an initial appearance before Justice Court Judge Eileen Maher. During this proceeding PLAINTIFF WAS NEVER GIVEN THE OPPORTUNITY FOR COUNSEL TO BE PRESENT, THUS A VIOLATION OF HIS 6<sup>TH</sup> AMENDMENT RIGHTS. Again, without counsel present or a charging affidavit given to Mr. Witten Judge Maher set a maximum bail amount unavailable to Mr. Witten and certainly unwarranted, A VIOLATION OF THE 8<sup>TH</sup> AMENDMENT.(see attachment "C")

On or about December 1<sup>st</sup>, 2021 the Mississippi Department of Public Safety mailed a letter with plaintiff's name, address and in bold letters for all to see "Registered Sex Offender Registration Verification". (see attachment "D") This most certainly is not the way for the government to conduct their business. It appears to be inciting retribution, injury and/or vandalism to Mr. Witten, his family and his property. Furthermore, this 1<sup>ST</sup> AMENDMENT VIOLATION serves as compelled speech the plaintiff in no way agrees with.

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B. What date and approximate time did the events giving rise to your claim(s) occur?

Plaintiff filed his civil action in February of 2021 which should have been heard in court in May or June of 2021.. His filing fee cleared the bank February 26, 2021. (see attachment "E"). Plaintiff was arrested and jailed September 10, 2021. Plaintiff received the inflammatory Department of Public Safety mailer about December 6, 2021.

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C. What are the facts underlying your claim(s)? (For example: *What happened to you? Who did what? Was anyone else involved? Who else saw what happened?*)

The facts are simple. Mr. Witten has not been given proper procedural due process in Mississippi. He wants to address this in state circuit court which is available by Law to him and his constitutional guarantees. Plaintiff would not need to file a federal complaint if the state would simply follow unambiguous law and procedure.

The state refers to a prior court ruling from June of 2014, Witten vs. Mississippi, when confronted with providing proof of proper due process such as court documentation of a conviction.(See attachment "F") The policy of res judicata must always yield to the Constitution. The state relies SOLELY on a favorable 5-4 ruling, yet violates Mr. Witten's civil rights in the process every day.

Mississippi, at the county and state levels of government, continue to violate Mr. Witten's rights DAILY by disseminating fictitious online information of a conviction. No such thing exists. This is known to the government of Mississippi, yet by fraud, perjury and outright lack of procedural due process the plaintiff's life is in jeopardy in many ways. Just recently Mr. Witten was unable to secure employment because of failed background checks triggered by the lawlessness of the State of Mississippi. Currently, Mr. Witten is under threat of arrest and/or fines.

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#### **IV. Irreparable Injury**

Explain why monetary damages at a later time would not adequately compensate you for the injuries you sustained, are sustaining, or will sustain as a result of the events described above, or why such compensation could not be measured.

Plaintiff Mr. Witten needs to secure a new job. This is virtually impossible to accomplish with what the State of Mississippi is doing to him currently and daily.

Certainly money damages have occurred. A tort claim is warranted but plaintiff needs immediate relief from the state's actions in the form of a temporary restraining order and/or injunctive relief.

Plaintiff requests immediate court intervention. The state is currently threatening his life and liberty (See attachment "G" and "H").

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#### **V. Relief**

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

Plaintiff requests per Federal Rules of Civil Procedure 65(a) a preliminary injunction, or for that matter a permanent injunction just based on the evidence within this complaint. Plaintiff's liberty is currently threatened by the state. As deemed appropriate, Rule 65(b) temporary restraining order may be necessary due to an immediate unlawful and unconstitutional threat to Mr. Witten's liberty.

This is government tyranny at its worst. Plaintiff's life is in utter disarray due to the unlawful actions of state and local government. Plaintiff requests the court to levy injunctive relief, either temporary or permanent, freeing him from the lawless shackles of registration by the State of Mississippi. Conviction of a registerable offense is the sole trigger for registration in Mississippi. Plaintiff owns no such conviction yet suffers daily harm by inclusion in the Mississippi registry (MSOR).

Plaintiff requests court action immediately to stop further lawless arrests that are currently threatened.

## VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

### A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 02/07/2022

Signature of Plaintiff



Printed Name of Plaintiff

Carey Jason Witten

### B. For Attorneys

Date of signing: \_\_\_\_\_

Signature of Attorney

Pro Se

Printed Name of Attorney

\_\_\_\_\_

Bar Number

\_\_\_\_\_

Name of Law Firm

\_\_\_\_\_

Street Address

\_\_\_\_\_